IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No. 142 of 2006

Mahfooz S/o Sri Abdul Aziz,
Posted as Lecturer, Physics,
Govt. Inter College, Banskhera,
District Udham Singh Nagar,
At present R/o Bazir Ahmad's House,
Banskhera, P.S. Banskhera,
District Udham Singh Nagar. …….. Appellant

Versus

1. Additional Director, Education,
   Kumaon Division, Nainital.
2. Director of Vidyalayi Education,
   Mayur Vihar, Uttaranchal,
   Dehradun.
3. State of Uttaranchal through Secretary,
   Education,
   Uttaranchal, Dehradun.
4. Manoj Kumar Aggarwal,
   Lecturer, Physics,
   G.I.C. Banskhera,
   District Udham Singh Nagar. …… Respondents

Mr. S.S. Negi, Advocate for the appellant.
Mr. Nanak Chand Gupta, Standing Counsel for respondents Nos. 1 to 3.
Mr. P.B. Goswami, Advocate for respondent No. 4.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. S.S. Negi, Advocate for the appellant.

Mr. Nanak Chand Gupta, Standing Counsel for respondents Nos. 1 to 3.

Mr. P.B. Goswami, Advocate for respondent No.4.

They are heard on admission.

2. Appellant Mahfooz has filed this Special Appeal against the impugned judgment dated 13.11.2006 passed in Writ Petition No. 1388 of 2006 (S/S).

3. Appellant Mahfooz filed the writ petition for the following reliefs:

> "I. a writ, order or direction in the nature of certiorari to quash the impugned order passed by respondent no. 1 on dated 04.11.2006 and dated 28.10.2006 which were given by the office of the respondent no. 1 to the petitioner on 08.11.2006 which is Annexure no. 5 to this writ petition.
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> II. a writ, order or direction in the nature of ad-interim mandamus commanding the respondents to stay operation of the impugned order passed by respondent no. 1 on dated 04.11.2006 and dated 28.10.2006 which were given by the office of respondent no. 1 to the petitioner on 08.11.2006 which are annexure no. 5 to this writ petition during the pendency of this writ petition.
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> III. a writ, order or direction in the nature of ad-interim mandamus by commanding the respondents not to transfer of the petitioner from G.I.C. Banskhera to G.I.C. Khailakhera U.S. Nagar during the pendency of writ petition and by commanding the respondents not to handover the charge from the petitioner to the respondent no. 4 during the pendency of the writ petition.
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> IV. A writ, order or direction in the nature of mandamus commanding the respondents to be maintained to treat the annexure no. 3 as it is, and not to interfere with the annexure no. 3 of the writ petition during the pendency of the writ petition.
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> V. Issue a suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.
>
> VI. Award the costs of the petition from the respondents to the petitioner."

4. The petitioner, in substance, was challenging, in the writ petition, the impugned order dated 04.11.2006 (Annexure No. 5), whereby, in partial modification of the original order of his transfer dated 28.10.2006, the petitioner was directed to join at Government Inter College at Kailakhera (Udham Singh Nagar) in place of Banskhera (Udham Singh Nagar).

5. The petitioner, who was posted at Government Inter College, Dewayal Salt, Almora, on his request, was transferred to Government Inter College, Banskhera, Udham Singh Nagar vide order dated 28.10.2006 against the newly created post in the said college. The authorities, inadvertently, transferred respondent No. 4 Manoj Kumar Aggarwal also against the newly created post in the Government Inter College, Banskhera vide another order dated 28.10.2006. It appears that the authorities, on coming to know about the above bonafide mistake of posting two persons against one post, passed the impugned order dated 04.11.2006, whereby the petitioner was diverted from Banskhera to Kailakhera within the district of Udham Singh Nagar.

6. As the impugned order dated 04.11.2006 was passed by the authorities to rectify a bonafide mistake, we do not find any infirmity in the impugned judgment, whereby the learned Single Judge has declined to interfere in the writ petition filed by the petitioner against the impugned order of his transfer.

7. The Special Appeal, therefore, fails and is hereby dismissed summarily.

8. Consequently, CLMA No. 13980 of 2006 also stands dismissed.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C.J.)**

17.11.2006 17.11.2006

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